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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
DINH, KHANH Q	
ART UNIT	**PAPER NUMBER**
2151	

DATE MAILED: 12/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/235,084	WALBECK ET AL.	
	Examiner	Art Unit	
	Khanh Dinh	2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 October 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-8,10-16 and 19-33* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8, 10-16 and 19-33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This is in response to the Amendment filed on 9/22/2005. Claims 1-8, 10-16 and 19-33 are presented for examination.

Claim Objections

2. Claims 19 and 28 are objected to because of the following informalities:

- In claim 19, the limitation "gateway node configured to respond to **a** least one request" should be changed to "gateway node configured to respond to **at** least one request".
- In claim 28, there is a typo error in claim section (claim 28 on page 4), there is an extra line "The sections of Norin identified by the Examiner teach store and forward replication, not tunneling". There in no underline with the extra line. Furthermore, the extra line seems to be an argument rather than the claim itself. Therefor, Examiner assumes that there is no "the extra line" for examination purpose and treats claim 28 in the original form as in the last Office Action.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 19-25, 27, 28 and 31 are rejected under 35 U.S.C. 102(e) as being anticipated by Norin et al., US pat. No.5,787,247.

As to claim 19, Norin discloses a method for using a desired protocol to communicate between nodes on a network, comprising: creating a node database containing information about said nodes (see abstract, figs. 1, 2, co1.8 line 30 to co1.9 line 65 and col.12 line 5 to col.13 line 56), designating an active gateway node to maintain said node database, said active gateway node providing one or more access methods to access said node database (i.e., using monitoring functions, col.15 line 11 to co1.16 line 57), said active gateway configured to respond to at least one request from at least one client node and mirroring said node database in one or more standby server nodes [i.e., storing and forwarding a replica list that contains all the replica nodes including replicating resources or nodes (12 fig.1), see col.13 line 18 to col.15 line 60] and transitioning to a first standby server node to an active state when said first standby

server node detects that said active gateway server node has not responded to said at least one request from at least one client node [using list maintenance block 36 of fig.2 to ensure the replica lists or nodes to be updated (active or deleted state) when a new information is received (accessed) via replication block, see co1.8 line 30 to co1.9 line 65 and col.13 line 18 to col.14 line 60].

As to claims 20 and 21, Norin discloses internal node database further comprising rules that specify actions to be taken upon a state change of a client node and interpreted by a rule engine (see co1.17 line 7 to co1.19 line 65 and co1.20 line 21 to co1.23 line 63).

As to claims 22 and 23, Norin discloses generating event notifications when said state change occurs provided to a dispatcher (see fig.2, col.13 line 18 to col.14 line 60, col.17 line 7 to col.19 line 65 and co1.20 line 21 to col.23 line 63).

As to claims 24 and 25, Norin discloses translating rules into a rule definition language and a change in an instance variable of the client node (see co1.17 line 7 to col.19 line 65 and co1.24 line 1 to co1.26 line 27).

As to claim 27, Norin discloses activating one of said standby server nodes after said active server becomes inactive (see col.13 line 18 to col.14 line 60, co1.17 line 7 to co1.19 line 65 and co1.20 line 21 to col.23 line 63).

As to claim 28, Norin discloses encapsulating raw packets in a first protocol into wrapper packets in said desired protocol and tunneling said raw packets through said desired protocol (see col.13 line 18 to col.14 line 60, col.17 line 7 to co1.19 line 65 and co1.20 line 21 to co1.23 line 63).

As to claim 31, Norin discloses an event handler configured to notify a user application when a change occurs in an instance variable of said client node (state changes of nodes, see col.13 line 18 to col.14 line 60, co1.17 line 7 to col.19 line 65 and co1.20 line 21 to co1.23 line 63).

Claim Rejections - 35 USC 103

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 103(a) that form the basis for the rejections under this section made in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1-7, 10, 13, 14 and 16 are rejected under 35 U.S.C. 103(a) as Being unpatentable over Norin et al US pat. No.5,787,247 in view of Chau et al., US pat. No.5,550,906.

As to claim 1, Norin discloses a computer network gateway comprising: an internal node (34 fig.2) database comprising information about nodes on a network (see

abstract, figs.l, 2, co1.8 line 30 to col.9 line 65 and col.12 line 5 to col.13 line 56), an application programming interface to communicate with said nodes and a software module (i.e., using monitoring functions to monitor state change of nodes, co1.15 line 11 to col.16 line 57) configured to provide an active mode and a standby mode, said active mode configured to maintain a said internal node database and to provide access to said node database, said standby mode configured to maintain said internal node database as a mirror copy [i.e., replicated resources or replica nodes will then have a copy of the data set list (or "set of data sets") available in the enterprise, see co1.8 line 30 to col.9 line 65] of an external node database (also see col.13 line 18 to co1.15 line 60) and transitioning to said active mode when an unacknowledged client request for access to said network medium is detected [using list maintenance block 36 of fig.2 to ensure the replica list updated (active or deleted state) when a new information is received via replication block, see col.13 line 18 to col.14 line 60].

Norin does not specifically disclose using a converter configured to communicate using one or more data protocols and then transmitting one or more data protocols over the network. However, the use of a protocol converter (40 fig.1) configured to communicate using one or more data protocols and then transmitting one or more data protocols over the network is generally well known in the art as disclosed by Chau (see fig.1, col.4 line 42 to col.5 line 57 and col.11 lines 7-61). It would have been obvious to one of the ordinary skill in the art at the time the invention was made to implement Chau's protocol converter to process data communications because it would have provided backward-

compatible arrangement for all communications protocol types of the multimedia environment (see col.1 line 42 to col.2 line 61).

As to claim 2, Norin discloses internal node database further comprising rules that specify actions to be taken upon a state change of a client node (see co1.17 line 7 to co1.19 line 65 and co1.20 line 21 to co1.23 line 63).

As to claims 3 and 4, Norin discloses rules are simple and complex rules (see col.17 line 7 to co1.19 line 65 and co1.20 line 21 to co1.23 line 63).

As to claims 5-7, Norin discloses a rules engine configured to interpret rules, shims configured to translate rules into a rule definition language and a change in an instance variable of the client node (see co1.17 line 7 to col.19 line 65 and co1.24 line 1 to co1.26 line 27).

As to claim 10, Norin discloses configured to tunnel a first protocol through a second protocol (see col.13 line 18 to co1.14 line 60, col.17 line 7 to co1.19 line 65 and co1.20 line 21 to co1.23 line 63).

As to claim 13 and 14, Norin discloses an event handler configured to notify a user application when a change occurs in an instance variable of said client node (ensuring

replica list is properly updated as new information is received, see col.13 line 18 to col.14 line 60, co1.17 line 7 to col.19 line 65 and co1.20 line 21 to co1.23 line 63).

As to claim 16, Norin discloses user interface is configured to allow a user to control nodes on a power line network (see co1.13 line 18 to col.14 line 60, col.17 line 7 to col.19 line 65 and co1.20 line 21 to col.23 line 63).

7. Claims 8, 11, 12, 15, 26, 29, 30, 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Norin et al., US pat. No.5,787,247 in view of Chau et al., US pat. No.5,550,906.

As to claims 8, 11, 12, 15 and 33, Norin and Chau's teachings still applied as above. Neither Norin nor Chau specifically discloses the use of ping requests, power line protocol, PLX protocol and an Internet browser. However, an Official Notice is taken that the use of such protocol and interface is generally well known in the art. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to implement well-known teachings into the system of Norin to process and control data processing systems because it would have controlled data processing systems more quickly (for example, Golden of the US pat. No.6,272,127 discloses the use of ping requests, power line protocol, PLX protocol and an Internet browser, see col.20 lines 37-57, col.29 lines 46-67 and col.54 lines 26-60).

Claim 26 is rejected for the same reasons set forth in claim 8. As to the added limitation, Norin further discloses listening for responses to said requests, said

responses used to update said node database (see co1.13 line 18 to col.l4 line 60, co1.17 line 7 to col.19 line 65 and co1.20 line 21 to co1.23 line 63).

Claims 29, 30 and 32 are rejected for the same reasons set forth in claims 11, 12, 15 respectively.

Response to Arguments

8. Applicant's arguments filed on 12/9/2004 have been fully considered but they are not persuasive.

- Applicant asserts that the cited reference does not disclose transitioning to a standby state when an unacknowledged client request is detected.

Examiner respectfully disagrees. Norin discloses a method for replication of data using an administration network environment to define various states (including active states) that represents the level of participation of nodes in the network. For example, Norin discloses transitioning to an active mode when an unacknowledged client request for network access is detected [using list maintenance block 36 of fig.2 to ensure the replica lists/nodes updated (active or deleted state) when a new information is received via replication block, see co1.8 line 30 to col.9 line 65 and *col.13 line 18 to col.14 line 60]. Users can implement this method for detecting and resolving conflicts between copies/duplicates of properties of data in a communications network.*

- Applicant asserts that the cited reference does not disclose creating a node database containing information about said nodes, designating an active gateway node to maintain said node database, said active gateway node providing one or more access methods to access said node database, said active gateway configured to respond to at least one request from at least one client node and mirroring said node database in one or more standby server nodes and transitioning to a first standby server node to an active state when said first standby server node detects that said active gateway server node has not responded to said at least one request from at least one client node.

Examiner respectfully point out that Norin ***does*** *discloses the Applicant's claimed invention. Specifically, Norin discloses a method for using a desired protocol to communicate between nodes on a network, comprising: creating a node database containing information about said nodes (see abstract, figs. 1, 2, co1.8 line 30 to co1.9 line 65 and col.12 line 5 to col.13 line 56), designating an active gateway node to maintain said node database, said active gateway node providing one or more access methods to access said node database (i.e., using monitoring functions, col.15 line 11 to co1.16 line 57), said active gateway configured to respond to at least one request from at least one client node and mirroring said node database in one or more standby server nodes [i.e., storing and forwarding a replica list that contains all the replica nodes including replicating resources or nodes (12 fig.1), see col.13 line 18 to col.15 line 60] and transitioning to a first standby server node to an active state when said first*

standby server node detects that said active gateway server node has not responded to said at least one request from at least one client node [using list maintenance block 36 of fig.2 to ensure the replica lists or nodes to be updated (active or deleted state) when a new information is received (accessed) via replication block, see co1.8 line 30 to co1.9 line 65 and col.13 line 18 to col.14 line 60] as rejected above.

- Applicant asserts that the cited reference does not disclose claim 1.

Examiner respectfully point out that Norin discloses a computer network gateway comprising: an internal node (34 fig.2) database comprising information about nodes on a network (see abstract, figs.l, 2, co1.8 line 30 to col.9 line 65 and col.12 line 5 to col.13 line 56), an application programming interface to communicate with said nodes and a software module (i.e., using monitoring functions to monitor state change of nodes, co1.15 line 11 to col.16 line 57) configured to provide an active mode and a standby mode, said active mode configured to maintain a said internal node database and to provide access to said node database, said standby mode configured to maintain said internal node database as a mirror copy [i.e., replicated resources or replica nodes will then have a copy of the data set list (or "set of data sets") available in the enterprise, see co1.8 line 30 to col.9 line 65] of an external node database (also see col.13 line 18 to co1.15 line 60) and transitioning to said active mode when an unacknowledged client request for access to said network medium is detected

[using list maintenance block 36 of fig.2 to ensure the replica list updated (active or deleted state) when a new information is received via replication block, see col.13 line 18 to col.14 line 60]. Norin does not specifically disclose using a converter configured to communicate using one or more data protocols and then transmitting one or more data protocols over the network. However, the use of a protocol converter (40 fig.1) configured to communicate using one or more data protocols and then transmitting one or more data protocols over the network is generally well known in the art as disclosed by Chau (see fig.1, col.4 line 42 to col.5 line 57 and col.11 lines 7-61). It would have been obvious to one of the ordinary skill in the art at the time the invention was made to implement Chau's protocol converter to process data communications because it would have provided backward-compatible arrangement for all communications protocol types of the multimedia environment (see col.1 line 42 to col.2 line 61) as disclosed above.

- Applicant asserts that the combination of Norin and Chau is impermissible hindsight.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include

knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See In re McLaughlin, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Therefore, the examiner asserts that cited prior art teaches or suggests the subject matter broadly recited in independent claims 1 and 19.
Claims 2-8, 10-16, 20-33 are also rejected at least by virtue of their dependency on independent claims and by other reasons set forth in the previous office action [mailed on 4/21/2005]. Accordingly, claims 1-8, 10-16 and 19-33 are respectfully rejected.

Conclusion

9. Claims 1-8, 10-16 and 19-33 are *rejected.*

10. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

11. Claims 1-8, 10-16 and 19-33 are rejected.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh Dinh whose telephone number is (571) 272-3936. The examiner can normally be reached on Monday through Friday from 8:00 A.m. to 5:00 P.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung, can be reached on (571) 272-3939. The fax phone number for this group is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval IPAIRI system. Status information for published applications may be obtained from either Private PMR or Public PMR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Khanh Dinh

Khanh Dinh
Primary Examiner
Art Unit 2151
12/23/2005